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| **AFRICAN INSTITUTES OF PROJECT MANAGEMENT STUDIES**  **[AIPMS] NIROBI-KENYA**  **COURSE STUDY: FORCED MIGRATION STUDY**  **POST GRADUATE DIPLOMA**  **YEAR: 2019**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **COURSE UNIT TWO [2]: THE DEMOGRAPHY OF FORCED MIGRATION.**  **ATTEMPT QUESTIONS FROM ONE TO SIX [1- 6]**  **SUBMITTED BY: OKETA DOMINIC LABOKE**  **INDEX NO: 256/003/2019**  **SUBMITTED TO**  **MODERATOR**  **SUBMISSION DATE: 15/06/2019 SIGNATURE:** |

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| **WITH REFERENCE TO DIFFERENT STATUS DEFINE A REFUGEE?**  The **Primary** and **Universal** definition of a refugee that applies to states is contained in Article 1[A][2] of the 1951 Convention, as amended by its 1967 Protocol. The refugee definitions are declaratory i.e. people are to be regarded as refugees until it is determined otherwise, and apply in all situations including emergencies.  Defining a refugee under the amended 1967 protocol, as someone who: *"owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or owing to such fear, is unwilling to return to it”*  In reference toarticle I [2] of the 1969 Organization of Africa Unity **[OAU]** Convention governing specific aspects of refugee problems in Africa extends the refugee definition refers to *“every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality”*  The **1984** Cartagena Declaration extends the refugee definition to: *"persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order".*  The definition of Refugee under **United Nations High Commissioner for Refugee [UNHCR's]** mandate, based on UNHCR's Statute competence to provide international protection to refugees encompasses individuals who meet the criteria for refugee status contained in Article 1 of the 1951 Convention and its 1967 Protocol and is extended to that a refugees refers’ to an *“individuals who are outside their country of origin and who are unable or unwilling to return there owing to serious threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order”*  **However,** the most basic **definition of a “refugee”** in international law is the definition adopted by the United Nations in 1951 Convention stipulate that *“any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”.*  **The political and practical issues surrounding data collection:**  Forced migration flows often occur in remote areas, away from centers of population and development. For instance, in 1996 Sudanese Refugees in Uganda where a relief workers trying to assist Sudanese refugees and were often unable to reach the refugees because of land mines and road closing. Under such circumstances, it may be difficult to reach the migrants, either to count them or to assist them.  The phenomenon of self-settlement can also create problems for those trying to estimate forced migrant populations. Refugees may not dwell in camps, but instead settle with the local population, who may share a similar language, ethnicity, or even kinship ties. For example, many of the Congolese refugees in Benin are self-settled refugees. Self-settlement can make it very difficult for assistance groups to determine who actually fled their homes and to get an accurate count of the forced migrants without accidentally including some of the local population. Even when refugees do reside in camps, there are numerous ways for errors to occur in the counts. For example, refugees might misinform relief workers about their own numbers or sometime the refugees may execrate the number of the household/family.  Relief workers might also be guilty of over reporting of the numbers of forced migrants in an attempt to encourage more aid. In other situations, aid workers may underestimate the number of actual migrants by accident. In addition, refugees might leave a camp to return home without notifying relief workers, or they may be hesitant to report deaths of family members because they fear that their food rations will be decreased. Whatever the reason, however, such reporting biases definitely make it more difficult to attain accurate numbers. All of these factors can contribute to a total count of persons that may be vastly different from the actual number.  The political as well as practical issues surrounding data collection of Forced migration is a highly charged political issue, and many people have a stake in how many refugees or internally displaced persons are counted. Government statistics may be manipulated for a variety of reasons. For example, if a regime is fighting a civil war that has displaced many persons, it might report their number as lower than it is so that the situation appears under control.  Conversely, a state may be inclined to overstate the actual number of refugees from a bordering nation to draw negative attention to an adversary or in an attempt to gain more relief aid for the refugees. Sometimes governments will refuse to allow international organizations access to the refugee populations within their borders, which makes it nearly impossible to disprove their suspicious statistics [U.N. High Commissioner for Refugees, 1994]. In an unstable situation, when the truth is being exaggerated or twisted by several different sources, it can become nearly impossible to arrive at an accurate figure.  **DISCUSS THE IMPORTANCE OF ESTIMATING THE POPULATION COMPOSITION OF FORCED MIGRATION**  Estimating components of population change, such as fertility and mortality, can be much more difficult to account for in an emergency situation than under normal circumstances. Information such as the number of births or deaths, ages, and family relationships may be difficult to obtain from forced migrants themselves.  Conversely, a state may be inclined to overstate the actual number of refugees from a bordering nation to draw negative attention to an adversary or in an attempt to gain more relief aid for the refugees. Sometimes governments will refuse to allow international organizations access to the refugee populations within their borders, which makes it nearly impossible to disprove their suspicious statistics [U.N. High Commissioner for Refugees, 1994]. In an unstable situation, when the truth is being exaggerated or twisted by several different sources, it can become nearly impossible to arrive at an accurate figure.  **First,** accountability to donors can cloud the collection of data. For example, it can lead to false precision as assistance agencies attempt to be responsive to donors. Black declared that agencies should be more accountable to the forced migrants themselves and less accountable to their funding sources  **Second,** for aid support as well as is too often focused on assisting solely the forced migrants themselves, rather than aiding the entire needy population in an area. As a result, keeping track of who is and who is not a refugee can become the primary task. Because aid would not be targeted so strictly, refugee numbers would not be directly linked to the quantity of aid.  The **third** important of estimating of population age and sex composition are needed both for planning services to both government and humanitarian agency to deliver aid and for estimating and comparing mortality and fertility rates. High-risk groups that require special public health interventions, such as special feeding programs or immunizations, are most likely to be children under 0-5 years of age, pregnant women, and the elderly.  Another important component of an estimated crude mortality rate is the total number of deaths over a period of time is more essential for population determination. Techniques range from burial site observation to collection of hospital or death records to surveys of community leaders or the population as a whole. Body collectors were employed to count the number of dead. At first, this led to over estimates of mortality because many collectors believed that they would be paid per body very little concrete information will be available or known about fertility rates in forced migrant settings.  **SOURCES OF REFUGEE PROTECTION LAW**  The International Law of refugee protection, which is the source of many such exceptions, comprises a range of universal and regional conventions or treaties, rules of customary international law, general principles of law, national laws, and the ever-developing standards in the practice of states and international organizations, notably the Office of the United Nations High Commissioner for Refugees. While the provision of material assistance food, shelter, and medical care is a critically important function of the international refugee regime, the notion of legal protection has a very particular focus. Protection in this sense means using the legal tools, including treaties and national laws, which prescribe or implement the obligations of states and which are intended to ensure that no refugee in search of asylum is penalized, expelled, or refouled, that every refugee enjoys the full complement of rights and benefits to which he or she is entitled as a refugee; and that the human rights of every refugee are guaranteed.  **The legal instruments** adopted before 1950 marked the sources and beginning of refugee protection law is inseparably linked with the name of the Norwegian Fridtj of Nansen, the great Arctic explorer, statesman, and philanthropist who, in 1921, was appointed High Commissioner for Russian Refugees of the League of Nations. His competence was later extended to other categories of refugees. The status of persons who do not have the protection of any government-refugees and stateless persons-is anomalous and extremely precarious.  **The universal treaties** concluded after 1950 was the for most treaties to discussed above the Convention relating to the Status of Refugees, adopted on July 28, 1951. This Convention was regarded as the most important international instrument relating to refugees. It contains a far more general definition of the term "refugee" than previous international instruments relating to refugees in order to ensure the universal scope of the Convention. For the purposes of the Convention, the term "refugee" applies to any person who a result of events occurring before **1** January **1951** and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside then country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. The Convention lays down, in the first place, that its provisions are to be applied without discrimination as to race, religion, or country of origin.  **The regional treaties** such as the Convention of the Organization of African Unity Governing the Specific Aspects of Refugee Problems in Africa of September **10,** 1969, is the regional supplement to the **1951** Convention relating to the Status of Refugees. It contains a broader definition of the concept of "refugee" than the **1951** Convention, covering persons outside their country of origin due to external aggression, military occupation, foreign domination, or other events seriously disturbing public order in either part or the whole of the country of origin. The Organization of African UnityConvention also addresses matters not regulated in the 1951Convention, such as asylum, subversive activities of refugees, and voluntary repatriation.On the European level, the Convention on Social Security of December 14, 1975, adopted in Paris under the auspices of the Council of Europe, assimilates refugees to nationals of the party in whose territory they reside with respect to social security laws. While these are the most important instruments of particular relevance to refugees, special provisions relating to refugees have been inserted in numerous bilateral and multilateral treaties, frequently at the initiative of the international agency entrusted with primary responsibility for the protection of refugees.  **The** **Municipal law**, there has been a distinct trend in the legislation of many countries in the past decades, to take into account, to an ever-increasing degree, the special position of refugees. Previously, the aliens' legislation of most countries did not distinguish between refugees and other aliens; the legislator had the normal, the protected alien in mind. But as mentioned above, the 1951 Refugee Convention and the 1967Protocol have been widely ratified by states and they have been incorporated, by direct or indirect transformation, into national laws. Where the principle of direct transformation applies, a treaty becomes by ratification ipso jure part of the law of the land; under the rule of indirect transformation, special legislative measures are needed to effect an amendment of national law. A number of countries have gone beyond their treaty obligations and have enacted special legislative provisions in favor of refugees.  **In conclusion**, several countries in Europe grants protection to refugees and Asylum seeker based on the municipal law for example in Switzerland. The Asylum Act of October **5,** 1979 provides that Switzerland grants asylum to refugees on their application. Refugees are defined as “persons who, in their country of origin, are exposed to serious prejudice on account of their race, religion, nationality, membership of a particular social group, or political opinion, or who have well-founded fear of being exposed to such prejudice”. "Serious prejudice" is to be considered, particularly danger to life, body, or freedom, as well as measures that result in insupportable psychological pressure.  **What is persecution and the reasons for persecution behind?**  ‘Persecution’ itself is not defined in the 1951 Convention. Articles 31 and 33 refer to threats to life or freedom, so clearly it includes the threat of death, or the threat of torture, or cruel, inhuman, or degrading treatment or punishment. A comprehensive analysis requires the general notion to be related to developments within the broad field of human rights, and the recognition that fear of persecution and lack of protection are themselves interrelated elements. The persecuted do not enjoy the protection of their country of origin, while evidence of the lack of protection on either the internal or external level may create a presumption as to the likelihood of persecution and to the well-foundedness of any fear.  A Convention refugee, by definition, must be unable or unwilling to avail him-or herself of the protection of the state or government, and the notion of inability to secure the protection of the state is broad enough to include a situation where the authorities cannot or will not provide protection, for example, against persecution by non-state actors.  The Convention does require that the persecution feared be for reasons of ‘race, religion, nationality, membership of a particular social group, or political opinion’. This language, which recalls the language of non-discrimination in the Universal Declaration of Human Rights and subsequent human rights instruments, gives an insight into the characteristics of individuals and groups which are considered relevant to refugee protection. These reasons in turn show that the groups or individuals are identified by reference to a classification which ought to be irrelevant to the enjoyment of fundamental human rights, while persecution implies a violation of human rights of particular gravity; it may be the result of cumulative events or systemic mistreatment, but equally it could comprise a single act of torture.  Foremost among these is the principle of non-refoulement. As set out in the Convention, this prescribes broadly that no refugee shall be returned in any manner whatsoever to any country where he or she would be at risk of persecution.  In practice, however, states’ freedom of action is significantly influenced by ‘external’ constraints, which follow from an internationally recognized refugee definition, the application of the principle of non-refoulement, and the overall impact of human rights law. The ultimate purpose of protection is not to ensure that refugees remain refugees forever, and voluntary repatriation reflects the right of the individual to return to his or her country of citizenship. No universal instrument deals with this, but the ‘right to return’ is widely accepted as an inalienable incident of nationality  **Conclusion**  The concept of the refugee as an individual with a well-founded fear of persecution continues to carry weight, and to symbolize one of the essential. The scope and extent of the refugee definition, however, have matured under the influence of human rights law and practice, to the point that, in certain well-defined circumstances, the necessity for protection against the risk of harm can trigger an obligation to protect.  **The human rights that people who have been subjected to forced migration are entitled to.**  Refugee law and international human rights law are closely intertwined; refugees are fleeing governments that are either unable or unwilling to protect their basic human rights. Additionally, in cases where the fear of persecution or threat to life or safety arises in the context of an armed conflict, refugee law also intersects with international humanitarian law and the rights guarantee to forced migration person are discussed below:  Non-refoulement, the basic principle of refugee law is non-refoulement refers to the obligation of States not to refoule, or return, a refugee to “the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” 1951 Convention relating to the Status of Refugees, article. 33[1]. Non-refoulement is universally acknowledged as a human right. It is expressly stated in human rights treaties such as Article 22[8] of the American Convention on Human Rights. Additionally, both regional and domestic courts have interpreted the rights to life and freedom from torture to include a prohibition against refoulement.  The principle of non-refoulement prohibits not only the removal of individuals but also the mass expulsion of refugees. There are two important restrictions to this principle. Persons who otherwise qualify as refugees may not claim protection under this principle where there are “reasonable grounds” for regarding the refugee as a danger to the national security of the host country or where the refugee, having been convicted of a particularly serious crime, constitutes a danger to the host community. 1951 Convention article 33[2].  The freedom of movement is also one of the essential human rights guarantee to forced migrants. At the regional level, the rights to seek asylum and freedom of movement can be found within the article in African [Banjul] Charter on Human and Peoples’ Rights, article. 12[1] and [3]; The rights are closely related, since the inability to return to one’s country is the basis of an asylum claim while the ability to leave one’s country is a prerequisite for claiming refugee status under the 1951 Convention. Freedom of movement, however, is also a key right for refugees within their host country. For instance, International Covenant on Civil and Political Rights, article. 12, and article 26 of the 1951 Convention provides that States shall afford refugees the right to choose their place of residence within the territory and to move freely within the State. Meanwhile, Article 28 obliges States parties to issue refugees travel documents permitting them to travel outside the State “unless compelling reasons of national security or public order otherwise require.”  The right to liberty and security of the person is important in the context of how asylum seekers are treated within the intended country of refuge. The national laws of several countries provide for the detention of asylum seekers at one point or another during the adjudication of their claims. The detention of asylum seekers is a contentious issue because of the conditions found in the detention facilities of several countries. This is particularly an issue in Greece, a country overwhelmed by the number of asylum seekers it receives, many of whom use Greece as a port of entry as they try to access other European countries. In order to clarify which State has responsibility for a particular asylum applicant, the Council of the European Union issued Council Regulation establishing the criteria and mechanisms for determining the member state responsible for examining an asylum application lodged in one of the member States by a third country national.  Right to family life, the family is seen as the “natural and fundamental group unit of society and is entitled to protection by society and the State. For instance, International Covenant on Civil and Political Rights, article. 23(1). In respect of this right, a number of countries provide for the granting of derivative status to dependent relatives. Thus, where an individual is granted asylum, his or her dependent relatives will also receive protection through him. However, should that individual’s refugee status be terminated, the status of dependent relatives will also be terminated. Consequently, these domestic laws do not preclude dependent relatives from making their own asylum claims.  **WORK CITED:**   1. Gil-Bazo, M.-T. [2008] ‘The Charter of Fundamental Rights of the European Union and the Right to be Granted Asylum in the Union’s Law’. Refugee Survey Quarterly 27[3]: 33. 2. McAdam, J. [2007] Complementary Protection in International Refugee Law. Oxford: Oxford University Press. 3. Marrus, M. R. (1985). The Unwanted: European Refugees in the Twentieth Century. New York: Oxford University 4. Goodwin-Gill, G. S. (2008) ‘The Politics of Refugee Protection’. Refugee Survey Quarterly 27: 8–23. 5. Hathaway, J. (2005) The Rights of Refugees. Cambridge: Cambridge University Press. 6. 1951 Convention relating to the Status of Refugees: 189 UNTS 137. Text in Brownlie 2010 and Goodwin-Gill and McAdam 2007.   UNGA Resolution 58/153, 22 December 2003, para. 9 and UNGA Resolution 428(V), 14 December 1950, Annex and UNGA Resolution 2198 (XXI), 16 December 1966; 1967 Protocol relating to the Status of Refugees: 606 UNTS 267; text in Goodwin-Gill and McAdam 2007. |